IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 871 of 2001
(old No. 414 of 1981)

State of U.P.
Through the Collector, Dehradun.

..... Appellant

Versus

Mahant Ashok Prapanna Sharma
Chhela of Sri Parashuram Bharat Mandir,
Rishikesh, District Dehradun.

..... Respondent

Mr. R.C. Arya, learned Standing Counsel for the appellant.
Mr. Dinesh Gahatori, learned counsel for the respondent.

Hon'ble Prafulla C. Pant, J.

This appeal, preferred under Section 54 of the Land Acquisition Act, 1894, is directed against the judgment and award dated 31.08.1981, passed by District judge, Dehradun in Land Acquisition Case No. 70 of 1980, whereby the compensation has been enhanced by Rs. 34,214/-.

2) Brief facts of the case, are that a reference was made by the Collector, Dehradun under Section 18 of the Land Acquisition Act, 1894 to the District Judge on dissatisfaction of claimant as to the compensation awarded by Special Land Acquisition Officer in respect of the acquired land of khasra No. 78, belonging to the respondent, situated in Rishikesh. Land of khasra No. 78 measuring area 1.717 acres was acquired for Planning Division by the State Government, out of which 1.017 acres belonged to the respondent. Mahant Ashok Prapanna Sharma. A notification under Section 4 of the Land Acquisition Act appears to have been issued and

published in Gazette on 07.12.1974 followed by Notification dated 01.02.1977 under Section 6 of said Act. The Special Land Acquisition Officer valued the land acquired belonging to the respondent at Rs. 90,750/- with 15% solatium amounting to Rs. 1,06,136.66 paise. On reference after recording evidence and hearing the parties, the learned District Judge found said amount to be insufficient and enhanced the same by Rs. 34,214/-. Aggrieved by the order of learned District Judge, this appeal has been field by the State Government.

3) Heard learned counsel for the parties and perused the record.

4) The District Judge has framed following three issues, during the trial:

1. *Whether the compensation awarded by Special Land Acquisition Officer* is reasonable and sufficient*?*
2. *Whether, the claimant is entitled to interest at the rate of 12% per annum, if so, from which date?*

3. *To what relief, if any, the claimant is entitled?*

5) The learned District Judge has found that the exemplar accepted by the Special Land Acquisition Officer, was relating to a plot at a distance from the land acquired and, considering, that the land acquired was nearer to the heart of the city, the amount of compensation was enhanced as mentioned earlier.

6) It is submitted on behalf of the State Government that the amount awarded by the Special Land Acquisition Officer

was sufficient and the District Judge has no reason to disagree with the same. In this connection, it is further contended that the finding of the Special Land Acquisition Officer was based on the exemplar and the reference court has erred in enhancing the compensation. I have perused the record and gone through the impugned judgment. It is true, that Ext. A-2, exemplar sale deed, relates to the land situated in Balmiki Colony, which is away from the land acquired nearer to the heart of the city. Agreeing to the exemplar relied by the Special Land Acquisition Officer, the valuation of the land in the area comes to Rs. 1,21,000/- per acre. The District Judge has valued the land at reasonably higher amount, keeping in view the fact that the land acquired is nearer to the center of the city and cannot be equated with the land which is away from the city. The approach of the learned District Judge cannot be said to be unreasonable, as it is a matter of common knowledge that the land nearer to the center of the city has a better market value as against the land in the outskirts of the city. The District Judge has not enhanced the sum arbitrarily by multiplying the compensation awarded by the Special Land Acquisition Officer, but the enhancement has been made marginally keeping in view the distance between the land pertaining to exemplar and the land acquired. Such marginal enhancement in such circumstances cannot be said to be unreasonable or unjust. The District Judge after coming to the conclusion that since the land in Balmiki Colony, on the basis of the exemplar valued at the rate of Rs. 1,21,000/- per acre, the land at the acquired site is of market value of Rs. 1,60,000/- per acre, accordingly, the value of 1.017 acre

comes out to be Rs. 1,62,720/-. The reference court has reduced 25% from said value as the segment acquired is a large one and worked out the compensation at Rs. 1,22,640/- with solatium at the rate of 15%, as per the then prevalent law. The reference court has awarded interest also on the enhanced sum of Rs. 34,214/- at 6% per annum thereon, which from any stretch of imagination cannot be said to be erroneous.

8) In the circumstances, for the reasons as discussed above, there is no reason to interfere with the award passed by the reference court. Accordingly, the appeal is dismissed. No order as to costs.

(Prafulla C. Pant, J.)

Dt. March 28, 2006.
H. Negi